

98-89

RESOLUTION AUTHORIZING ENTERING  
INTO INTERGOVERNMENTAL AGREEMENT  
FOR THE PURCHASE, INSTALLATION, AND  
MAINTENANCE OF CULVERTS ON  
CERTAIN PUBLIC ROADWAYS

WHEREAS, Navajo County is a party in the above referenced Intergovernmental Agreement, and

WHEREAS, this Agreement was approved by the Navajo County Board of Supervisors in open session on September 18, 1989, and

WHEREAS, the total cost approved for installation of said culverts is not more than \$40,000.00, as shown by the attached cost analysis by the Fort Defiance Branch of Road Maintenance,

THEREFORE BE IT RESOLVED that the Navajo County Board of Supervisors is hereby authorized to enter into the Intergovernmental Agreement with the Navajo Nation for the Purchase, Installation, and Maintenance of Culverts on the Navajo Indian Reservation.

ADOPTED this 18<sup>th</sup> day of September, 1989.

NAVAJO COUNTY BOARD OF SUPERVISORS

Malvin J. Gillespie  
Acting Chairman of the Board

ATTEST:

Sharon R. Keene  
Sharon R. Keene  
Clerk of the Board

INTERGOVERNMENTAL AGREEMENT FOR  
THE PURCHASE, INSTALLATION, AND  
MAINTENANCE OF CULVERTS ON  
CERTAIN PUBLIC ROADWAYS

This agreement is entered into by and between the United States of America through the Secretary of the Interior, the Navajo Nation through the Advisory Committee of the Navajo Tribal Council, and the Chairman of the Navajo Tribal Council, and Navajo County, Arizona, through the Navajo County Board of Supervisors.

The purpose of this agreement is to facilitate and ensure the purchase, installation, and maintenance of certain culverts on certain specified roadways at the locations indicated herein, all in Navajo County, Arizona, within the boundaries of the Navajo Indian Reservation.

I. PURPOSE

- A. The purpose of this agreement is to set out the responsibilities of Navajo County and of the Bureau of Indian Affairs regarding the purchase, installation, and maintenance of certain culverts on Indian lands held in trust for the Navajo Nation by the United States Government, and to guarantee access to said lands by the public and agents, officers, and employees of Navajo County, to insure compliance with this agreement.
- B. Navajo County has the authority to enter into this agreement pursuant to A.R.S. §11-251(28), and pursuant to A.R.S. §28-952(B)(2).

## II. DURATION

The duration of this agreement shall be for a period of 10 years, commencing on the date this agreement is duly filed with the Recorder of Navajo County, pursuant to A.R.S. §11-952(F).

## III. AUTHORITY OF PARTIES

- A. The United States through the BIA Area Director as delegated is authorized to enter into this agreement and his/her signature shall constitute entry into this agreement by the United States.
- B. The Chairman of the Navajo Tribal Council is authorized to enter into this agreement pursuant to the resolution of the Advisory Council of the Navajo Tribal Council, attached hereto as "Exhibit A".
- C. The Chairman of the Navajo County Board of Supervisors is authorized to enter into this agreement on behalf of Navajo County pursuant to the Resolution of the Navajo County Board of Supervisors, attached hereto as "Exhibit B".

## IV. FINANCING

Navajo County's Financial Commitment under the Agreement shall be financed by appropriations from Highway User Revenue Fund monies as identified in the Navajo County Road Budget for the County Fiscal Year 1988/1989. The parties hereto agree that the total appropriation by Navajo County for implementation of this agreement shall not exceed \$40,000 dollars.

## V. DUTIES OF THE PARTIES

### Duties of Navajo County:

1. Navajo County agrees to expend \$40,000 from highway user revenue funds and to use said funds to purchase culverts pursuant to the specifications attached hereto as "Exhibit C".
2. The County also agrees to make said culverts available to the Bureau of Indian Affairs at a place and location to be agreed upon by the parties.
3. Navajo County agrees that it shall have the opportunity, but not the responsibility to inspect the installation and maintenance but not the responsibility to require that the BIA fully complies with its portion of this agreement.

### Duties of the BIA:

1. The BIA shall have the responsibility to take delivery of the culverts referred to above at a place to be agreed upon by the parties and shall be responsible for the delivery of said culverts to the site of installations as set out in "Exhibit D", to install said culverts in a manner consistent with the professional standards relating thereto, and to maintain said culverts for a period of time not less than ten (10) years, or for the useful life of the culverts, whichever is shorter.
2. The BIA shall fully cooperate with the County in permitting the County to inspect the installation and maintenance of the culverts and shall use

its best efforts to see that the culverts shall be installed in the designated locations and within six (6) months of the execution of this agreement.

3. The BIA and all other parties to this agreement agree that the roads on which these culverts are placed shall remain open to the public at all times hereafter as a result of the use of public funds to purchase said culverts.

#### V. TERMINATION

This agreement shall remain in effect during the period of installation of the culverts referred to herein and for the period of maintenance set out herein.

#### VI. SOVEREIGN IMMUNITY

Nothing in this agreement or attachment shall be construed as a waiver of Sovereign Immunity by the Navajo Nation or the United States, nor as a consent to be sued, or as submission to jurisdiction of any court.

#### VIII. SAVING CLAUSE

If any provision of this Agreement is held invalid or unenforceable, the remaining provisions shall continue valid and enforceable to the full extent permitted by law and equity.

#### IX. CHANGE OF APPLICABLE LAWS AND REGULATIONS

Any changes in the governing state laws, rules and regulations during the term of this Contract shall apply. The County shall notify the Nation and the Bureau of Indian Affairs, Navajo Area Office, in writing of any changes

in the governing laws, rules and regulations affecting any terms or conditions of this Agreement which becomes effective during the term of this Agreement.

X. NOTICES

All notices under this Agreement shall be in writing, shall be delivered in person or by certified mail, return receipt requested and shall be delivered to the persons and addresses as either party may designate to the other by notice.

XI. EXERCISE OF RIGHTS

Failure to exercise any right, power or privilege under this contract shall not operate as waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise of that or any other right, power or privilege.

XII. AMENDMENTS

This agreement may be modified or extended upon the written agreement of the parties.

XIII. LIABILITY OF WRONGS

Each party shall be responsible for wrongs committed by itself to the extent authorized by law. Each party shall bear all costs for its own defense by any litigation.

XIV. ENTIRE CONTRACT

This document, its appendices and attachments, including any approved amendments and modifications and any required supporting documents, shall constitute the entire agreement between the parties and supersede all other understandings, oral or written.

XV. BUREAU FUNDING

This Agreement does not obligate the Bureau of Indian Affairs to expend appropriated funds in advance of appropriation. This Agreement is not a procurement document and does not require the Bureau to expend funds it does not have available for the purpose of this Agreement.

FOR AND ON BEHALF OF  
THE BOARD OF SUPERVISORS  
OF NAVAJO COUNTY

Marlin J. Gillespie  
Marlin Gillespie, Acting Chairman  
Board of Supervisors

FOR AND ON BEHALF OF THE  
NAVAJO NATION

\_\_\_\_\_, Chairman  
Navajo Tribal Council

Date: \_\_\_\_\_

Date: \_\_\_\_\_

FOR AND ON BEHALF OF THE UNITED STATES:

\_\_\_\_\_  
James Stevens  
BIA-Navajo Area Director

\_\_\_\_\_  
Contracting Officer  
Navajo Area

Date: \_\_\_\_\_

Date: \_\_\_\_\_

In accordance with applicable laws, this agreement has been reviewed by the undersigned who have determined that this Agreement is in appropriate form and within the powers and priority granted to each respective public body.

Dale K. Patton, Jr.  
Dale K. Patton, Jr.  
County Attorney  
County of Navajo

Date: 9-13-89

\_\_\_\_\_  
Attorney General  
The Navajo Nation

Date: \_\_\_\_\_

CULVERTS  
FY 90

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